

what is going to happen. It does not say how it is going to take place. It merely says you are going to have all these powers allocated and prescribed among the twenty departments. How they get there is taken up in the next section.

This gives you two procedures. One, by law, namely an act of the procedure and then an act which has the force and effect of law but which is not law. Then one of these two things will meet the reorganizational problem which you are defining in 4.18.

THE CHAIRMAN: Delegate Morgan.

DELEGATE MORGAN: Would your problem be solved, Delegate Case, if in 4.18 we struck out "by law" and inserted "by the General Assembly"?

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: No. I am not speaking to policy because I did not serve on your Committee and I did not hear all this debate.

It would seem to me if you did that, then you would be restricting the governor in his power to bring in an executive order, you see, so I do not think you have to say in section 4.18 how it is going to be done.

I think you just have to say there that it is going to be done. Then, in section 4.19, you come to how it is going to be done and you have your two procedures spelled out.

It seems to me that that would be perfectly consistent.

THE CHAIRMAN: May the Chair make a suggestion as to this matter since it is obvious we will not finish consideration of the article by the luncheon recess and since your Committee is going to meet at any rate at that time, can you give consideration to that, Delegate Morgan?

DELEGATE MORGAN: Very well, Mr. Chairman.

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: Mr. Chairman, we have two things here and I think that we ought to recognize them. First, you have the programs which the State adopts and these are defined by law and 4.18 is designed to obtain the programming of the law within the General Assembly. The 4.19 is designed to apply to organization only and certainly if you take the word "by law" out of 4.18, you are giving the governor the power to change the pro-

grams of the State; the substantive law will go far beyond any organizational power and it would be a grievous blunder to take the law out of 4.18. It would expand the power of the governor over the departments to include every program in the state regardless of whether or not it is under the guise of reorganizing the executive department to make it a more efficient operating department. This would be a destruction of the whole concept.

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: I point out to Senator James that he bases this on the words "functions, powers and duties of the executive offices", and then in 4.18, the exact same words as in 4.19, "functions, powers and duties". When you come to line 34, where these changes, meaning functions, powers and duties, are going to be changed in some way, the governor is given the right to do it. I am not arguing for or against it, all I am saying is that the way these sections are drafted it would give the governor the right to do this. As I understand it was interpreted by Delegate Morgan, he could do it by procedures which would not be law but which would have the effect of law. The governor would have the right to change the functions, powers and duties of the department.

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: Section 4.18 recognizes that the legislature retains the power to control the programs of the State; now under 4.19 the administration of these programs could be handled by the reorganization process. At least, that is the intention of the Committee and when you repeat these words, you do not mean that the programs will be changed, but the administration of the program can be changed under the reorganization power.

THE CHAIRMAN: The words used are in line 32, in which it says "assignment of functions," I take it?

DELEGATE JAMES: Yes.

THE CHAIRMAN: Delegate Hanson.

DELEGATE HANSON: Mr. Chairman, I am not exactly sure where we are in all of this, but I would agree with Delegate Case that the removal of the words "by law" in 4.18 would place a constitutional mandate upon the legislature or upon the governor that this is the manner in which the functions of the departments must be allocated in the minimum number of departments which must be created and